

REMARKS**Status of the Claims**

Claims 3, 18, 20, 22, 24, 26 and 27 are pending in this application. All claims are rejected. Claims 1-2, 4-15, 17, 19, 21, 23, 25, and 28-40 are cancelled without prejudice.

Applicants reserve the right to pursue cancelled claims in a continuing application.

Claim 3 has been amended to recite the transitional phrase “consisting of.” No new matter has been added by this amendment.

Applicants respectfully request reconsideration of the rejections in view of the remarks set forth below.

Summary of Examiner Interview

Applicants thank the Examiner for taking the time to discuss the instant application with applicants’ representative in a telephone interview held on December 17, 2008. Based on this interview, it is applicants’ understanding that the above amendment to claim 3 and cancellation of claim 5 will place the application in condition for allowance.

Response to Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 3, 5, 16, 18, 20, 22, 24, 26 and 27 under 35 U.S.C. § 103(a) for allegedly being obvious over U.S. Patent No. 6,333,298 (“Waddoups et al.”) in combination with either U.S. Patent No. 4,604,491 (“Dressler et al.”) or U.S. Patent No. 5,254,274 (“Ho et al.”), and in further view of U.S. Patent No. 5,602,086 (“Le et al.”).

As set forth in the September 2, 2080 paper, and previous submissions of the applicants, Waddoups et al. strictly requires the inclusion of calcium detergents in lubricating compositions. In contrast, claim 3 as amended, by virtue of the “consisting of” transitional

phrase, specifically excludes calcium detergents, because a “consisting of” claim “excludes any element, step, or ingredient not specified in the claim.” MPEP § 2111.03. Therefore, applicants respectfully submit that Waddoups et al., neither alone nor in combination with the other cited references, renders amended claim 3 unpatentable.

Applicants respectfully request that any rejection of claim 3 under 35 U.S.C. §103(a) based on Waddoups et al. be reconsidered and withdrawn. Therefore, for all of the foregoing reasons, applicants respectfully request reconsideration and withdrawal of the pending rejection of claim 3 under 35 U.S.C. §103(a) over Waddoups et al. in combination with either Dressler et al. or Ho et al., and in further view of Le et al.

Applicants have not independently addressed the rejection of the dependent claims. Applicants submit that for at least similar reasons as to why independent claim 3 is allowable, as set forth above, claims 16, 18, 20, 22, 24, 26 and 27 (which each depend therefrom) are likewise allowable. Applicants reserve the right to independently address the rejections of the dependent claims should such be necessary and/or appropriate.

CONCLUSION

Based on the foregoing amendments and remarks, applicants respectfully request reconsideration and withdrawal of the pending rejections and allowance of this application.

Applicants respectfully submit that the instant application is in condition for allowance.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No. 0444-4083US1.

In the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **13-4500**, Order No. 0444-4083US1.

Respectfully submitted,
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